Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
AT&T and NTCA TDM-to-IP Voice Transition Petitions	)	GN Docket No. 12-353
	)	

COMMENTS OF SPRINT NEXTEL CORPORATION

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Sprint Nextel Corporation ("Sprint") below responds to the Commission's request for comment on the petitions filed by AT&T and NTCA, which ask the Commission to address "the ongoing technological transition of voice networks."[1]

I. INTRODUCTION AND SUMMARY

The Commission has a critical role to play in the transition from legacy, circuit-switched networks to an all-IP ecosystem. Sprint agrees with NTCA that the challenge facing the Commission is identifying "the proper path by which to promote, and more importantly, sustain the already-ongoing IP evolution in a manner consistent with the core statutory objectives of protecting consumers, promoting competition, and ensuring universal service."[2] However, the "paths" proffered by both AT&T and NTCA will not lead industry and the public in the direction our nation needs to go, in a manner which protects and promotes these critical statutory principles. Near term, the most important step the Commission can take to facilitate the transi-

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1 *See* Public Notice, *Pleading Cycle Established on AT&T and NTCA Petitions*, GN Docket No. 12-353, DA 12-1999 (Dec. 14, 2012). *See also* AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No 12-353 (Nov. 7, 2012) ("AT&T Petition"); Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution, GN Docket No. 12-353 (Nov. 19, 2012) ("NTCA Petition").

2 NTCA Petition at i.

tion to an all-IP ecosystem would be to complete the pending IP voice interconnection *FNPRM*.[3]

AT&T complains in its petition that as the largest incumbent LEC (and single largest telecommunications company in the United States), it is at a "competitive disadvantage" because it is subject to "unique regulatory burdens" and that this regulation "threaten[s] to reduce ILEC incentives to invest in new or upgraded IP networks" at "the margins" – namely, the "high-cost areas where the business case for broadband deployment remains highly challenging."[4] According to AT&T, the FCC's "next step" to facilitate the TDM-IP transition should be to remove "***potential*** legal and regulatory impediments to the transition."[5]

On the same day it filed its petition, however, AT&T announced its $14 billion Project Velocity that, it says, will extend its "high-quality IP-based broadband services to 99 percent of all customer locations within AT&T's wireline service area."[6] Based upon this announcement, it appears that AT&T is proceeding with the deployment of IP services regardless of Commission action. This is not surprising, given that the rest of the industry is already far down the path of IP migration. It does not appear to be an efficient use of the Commission's limited resources, however, to design and conduct a "regulatory experiment" for a *de minimis* portion of a single carrier's service area.

The relief NTCA seeks in its petition is also problematic. Of particular concern is NTCA's suggestion that carriers be allowed "to recover costs for the exchange of communica-

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3 *See Connect America Fund, et. al, Further Notice of Proposed Rulemaking ("USF/ICC Transformation FNPRM" or "FNPRM")*, 26 FCC Rcd 17663, 18123-47 (¶¶ 1335-98) (2011).

4 *See* AT&T Petition at 4, 5 and 11.

5 *See id.* at 2 and 6 (emphasis added).

6 *See id.* at 9.

tions traffic where they ***agree*** to make available IP-based interconnection…."[7] NTCA does not identify any additional costs its members would incur by "agreeing" to provide IP voice interconnection; indeed, the FCC has already found that the incremental costs of terminating traffic, especially on IP networks, will be close to zero, raising the specter of the myriad of serious problems associated with uneconomic pricing and implicit subsidies. Nor does NTCA explain how its proposal to assess "incentive-based" charges is consistent with the bill-and-keep regime already adopted by the Commission. Any demand to be allowed to assess "incentive-based" charges as a precondition to offering IP interconnection should be rejected.

The most important next step the Commission can take to facilitate the TDM-IP transition is to decide the issues in the pending *FNPRM* where an extensive record has already been compiled – and in particular, that portion of the *FNPRM* addressing the interconnection of IP networks for the exchange of voice traffic. Consumers and our nation's economy will realize tremendous benefits once most voice traffic is exchanged on an IP (vs. a TDM) basis. Among other things:

1. Nationwide, network operators could remove at least $1 billion in the costs of handling voice traffic[8] – cost savings that competition in retail markets will ensure will be passed through to consumers;
2. IP voice interconnection would permit the entire industry to deploy additional network redundancy to minimize the impact of network outages, such as those caused by natural disasters; and
3. Consumers could receive a higher quality of voice services and the interconnection of IP networks would provide a nationwide, all-IP platform for the introduction of a vast array of new IP-based features and services.

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[7] *See* NTCA Petition at 13, emphasis added.

[8] This is a conservative estimate based on an extrapolation from the cost reductions Sprint anticipates it would achieve through elimination of TDM interconnection facilities; reduction in the costs associated with managing tens of thousands of small TDM interconnection facilities to a small number of large IP interconnection facilities; and the elimination of legal and regulatory expenditures associated with interconnection debates and disputes.

Sprint has shown in its *FNPRM* filings that only a handful of rules are needed to facilitate the broad availability of IP voice interconnection:[9]

- Since, at least with respect to incumbent LECs, the FCC's expectation[10] that good faith negotiations resulting in interconnection agreements has not been fulfilled, the FCC should immediately affirm that its IP good faith negotiations and interconnection requirement applies to incumbent LECs;
- This negotiation/interconnection requirement should apply, upon request, to both an IP network operator and all of its affiliates providing voice services;
- Unless the parties agree otherwise, IP voice traffic should be exchanged at the same locations where non-voice IP traffic is exchanged today (*i.e.*, regional Internet exchange points, or "IXPs");
- Unless the parties agree otherwise, voice traffic will be exchanged on a "settlements free" (or "sender keeps all") basis;
- Unless the parties agree otherwise, every terminating network operator should be responsible for any IP-to-TDM conversions needed to complete incoming voice calls to its customers; and
- Existing procedures (the complaint process at the FCC or the arbitration process before state commissions) can be invoked to resolve any IP voice interconnection disputes.

Sprint urges the Commission to complete this portion of the *FNPRM* promptly. This one step will provide a greater public benefit and will do more to facilitate the transition to an all-IP ecosystem than any other action the FCC might take in the near future.

II. AT&T'S PROPOSAL WILL NOT PROMOTE IP DEPLOYMENT, AND ITS "REGULATORY EXPERIMENTS" WILL GENERATE LITTLE USEFUL INFORMATION

There are, as demonstrated below, numerous problems with AT&T's petition, including (a) AT&T's recommended procedure will not facilitate the TDM-IP transition; (b) AT&T's proposed "regulatory experiments" would have marginal practical value and do little, if anything, to

[9] *See* Sprint's *FNPRM* Comments, WC Docket No. 10-90 *et al.* (Feb. 24, 2012); Sprint *FNPRM* Reply Comments (March 30, 2012).

[10] *See Connect America Fund, et. al, Report and Order ("USF/ICC Transformation Order"),* 26 FCC Rcd 17663, 18044 (¶ 1011) (2011).

facilitate the TDM-IP transition; (c) it is premature for the FCC to consider in the near future AT&T's retirement of its TDM network; and (d) several claims made in the petition are unsupported or inaccurate.

A. AT&T'S RECOMMENDED PROCEDURE WOULD NOT PROMOTE THE TDM-IP TRANSITION

AT&T states it filed its petition to "launch a proceeding" in order to "facilitate the 'telephone industry's continued transition from legacy transition platforms and services to new services based fully on the Internet Protocol ("IP")."[11] It is not entirely clear what sort of procedure AT&T is suggesting; what is clear is that experiments designed and implemented by an ILEC are unlikely to yield meaningful results or insights that will facilitate the TDM-IP transition. From the perspective of a carrier seeking IP interconnection from AT&T, Sprint views AT&T's recommended procedure as likely to delay rather than to promote IP interconnection.

AT&T says that the principal problem it and other incumbent LECs face today is that they are at a regulatory disadvantage because they are subject to "disproportionate regulatory burdens."[12] AT&T's petition discusses some of the regulations it believes are problematic, the disposition of most or all of which are, as AT&T acknowledges, already pending before the Commission.[13] Initiating a new proceeding is simply redundant and will not generate any new information or insights. AT&T also says that in the new proceeding it seeks, the FCC "could . . . identify" additional "potential legal and regulatory impediments to the transition."[14] This does not appear to be an effective use of the Commission's resources. If AT&T, or any other party,

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11 AT&T Petition at 1.

12 *See id.* at 5 and 10.

13 *See id.* at 13 and 15.

14 *See id.* at 6 and 20.

believes that an existing rule is no longer necessary, it can file a petition for forbearance or waiver and support the requested relief with facts.

AT&T suggests the elimination of all legacy regulation in "geographically limited trial runs" to conduct a "TDM-to-IP experiment." AT&T does not explain how the removal of all regulatory obligations would address the technical issues associated with IP interconnection or speed the negotiation of IP interconnection agreements. As AT&T acknowledges, the Commission cannot consider its "experiment" proposal until AT&T submits "detailed plans for conducting [such] trials,"[15] which it has not supplied. Given the lack of "detailed plans," there is, in effect, no specific relief on which to comment.

B. AT&T'S PROPOSED "REGULATORY EXPERIMENTS" WOULD HAVE MARGINAL PRACTICAL VALUE AND DO LITTLE TO FACILITATE THE TDM-IP TRANSITION

AT&T says its proposed "regulatory experiments" are important because at "the margins, . . . legacy regulation *could* hinder future ILEC investment in new or upgraded all-IP networks":

> There will be many high-cost areas where the business case for broadband deployment remains challenging. And where that case is weakest, the regulatory environment will influence providers' future investment decisions.[16]

While it may be true that the regulatory environment can affect a carrier's investment decisions, this does not appear to be the case for AT&T's deployment of broadband capabilities in the overwhelming majority of its service territory. In any remaining unserved areas, it is doubtful that AT&T's proposed "regulatory experiments" will prove that deregulation will lead to broadband deployment.

AT&T, on the same day it filed the instant petition, announced its $14 billion Project Velocity that, it says, will extend its "high-quality IP-based broadband services to 99 percent of all

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15 *See id.* at 20. *See also id.* at 6.

16 *See id.* at 4 and 5 (emphasis added).

customer locations within AT&T's wireline service area."[17] The existence of legacy regulations obviously did not deter AT&T from committing to make this sizable new investment. It would therefore appear that AT&T is proposing "regulatory experiments" for the remaining one percent (1%) of its service area where it has no current plans to make any broadband investment.

The Commission and industry cannot evaluate AT&T's proposed "regulatory experiments" until AT&T submits a detailed plan. For example, will its experiments include all of the remaining underserved high cost areas, or just a portion of these areas? The high cost areas in question presumably are the very areas where AT&T will be eligible to receive CAF universal service funding. Is AT&T proposing its "regulation free" zones as an alternative to its receipt of CAF funding? AT&T's petition is silent on these matters.

AT&T suggests that its proposed "regulatory experiments" will "help the Commission understand the technical and policy dimensions of the TDM-to-IP transition. IP technology, however, has long been ubiquitous in long distance backbone networks and a large percentage of wireless traffic is currently exchanged using IP technology. Long distance carriers and wireless carriers did not require or request regulatory relief to deploy these IP networks; rather, the technology was deployed because of its tremendous cost efficiencies. In local networks, AT&T itself already provides IP voice services to over 2.7 million customers.

With increasing frequency, Sprint and other competitive voice providers are interconnecting their IP networks to exchange voice traffic with each other (although, in Sprint's case, not with any incumbent LECs, despite our efforts to do so). Based on these existing arrangements, Sprint can attest that IP voice interconnection works – and further, results in substantial cost savings compared to the TDM interconnection carriers had been using. Incumbent LECs, however,

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[17] *See id.* at 9.

remain unwilling to enter into IP voice interconnection agreements – even though such interconnection would be far more efficient from a network perspective for all carriers involved. Eliminating regulatory obligations to negotiate interconnection would not appear to be a means of improving this situation.

AT&T's petition does not identify what lessons would be learned about the "policy dimension." For example, there is little dispute that equal access PIC rules are largely anachronistic in a market where consumers are demanding all-distance voice services at a fixed price; no experiment is needed to prove this point. The proposed experiment would also shed no light on the continuing need for use of the § 214 discontinuance provision – since even AT&T acknowledges it cannot commence its experiments until the Commission approves its proposed plan to shutter its TDM network in the "regulation free" zones. Given the ILEC control over many of the inputs necessary for competitive providers to provide service, continued supervision of efforts to discontinue the provision of these inputs will remain critical to preserving competition. Finally, reducing the length of the network change notice period by a month or two would be unlikely to have a material impact on the TDM-IP transition.

Given the foregoing, Sprint cannot agree that AT&T's proposed "regulatory experiments" should be the "next step" the Commission takes regarding the TDM-IP transition.[18] This transition can be accelerated if incumbent network operators agree to exchange voice traffic on an IP basis. Accordingly, as discussed in Part IV below, the best means of accelerating the TDM-IP transition would be to affirm the obligations of incumbent LECs to negotiate in good faith and enter into IP voice interconnection agreements, and to complete the *FNPRM* proceeding.

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[18] *See id.* at 2.

C. IT IS PREMATURE FOR THE COMMISSION TO CONSIDER IN THE NEAR FUTURE AT&T'S RETIREMENT OF ITS TDM NETWORK

In its petition, AT&T urges the Commission to pave the way so it can retire its TDM network, stating:

> ILECs remain subject to an array of monopoly-era regulation obligations . . . [and] those obligations hinder carriers' ability to retire their legacy TDM networks. * * * The path forward is clear: ILECs must be able to retire their obsolete TDM-centric networks and invest in IP broadband facilities. * * * Maintaining a legacy TDM network . . . is an immensely expensive proposition.[19]

AT&T asserts that by addressing this TDM network retirement issue now, the FCC would "facilitate the transition" to an "all-IP network."[20]

Sprint cannot agree with AT&T's assessment. FCC action on this matter is premature at this time, for at least three reasons. First, AT&T is already demonstrating that it is capable of implementing an IP deployment while concurrently operating its TDM network. Second, AT&T will continue to rely on its TDM network to provide voice service to the vast majority of its subscribers for the next several years. Third, it is largely the purview of State, rather than federal, regulators to determine the timing of the retirement of TDM networks.

First, AT&T told investors just last week that it was providing IP voice services to over 2.7 million customers at the end of 2012, with its U-verse revenues increasing by 36.3 percent.[21] Unsurprisingly, AT&T's petition does not allege that "legacy" and "outdated" regulations have inhibited in any way its ability to market and provide these IP voice services.[22]

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19 *See id.* at 10, 11 and 12.

20 *See id.* at 4.

21 *See* AT&T News Release, "Strong Growth in Wireless and U-verse Drives Revenue and Adjusted Earnings Per Share Growth in AT&T's Fourth-Quarter Results" (Jan. 24, 2013), and attached AT&T Supplemental Operating and Financial Data, *available at* http://www.att.com/gen/press-room?pid=23672&cdvn=news&newsarticleid=35937 ("AT&T 4Q12 News Release").

22 *See* AT&T Petition at 20 and 21.

Second, it is important for the Commission to understand that AT&T is not going to retire its TDM network any time soon. As of last September, AT&T was serving over 32 million voice customers with its TDM network,[23] and AT&T executives have stated that it will continue to rely on this network for several more years.

For example, one AT&T senior vice president has said it will take at least three years for AT&T to complete its buildout of the new IP network infrastructure encompassed with its Project Velocity.[24] Another AT&T vice president has acknowledged that AT&T does not intend to close its TDM network immediately after this IP network buildout is completed:

> The move to all-IP will include a grandfather period in which AT&T wouldn't allow any new non-IP subscribers, but would continue to provide [TDM] service, said Hultquist. Following that period, the company would eventually shut down the service completely, he said.[25]

Indeed, AT&T is reported to have predicted that the transition to all-IP networks will not be completed before "the end of the decade."[26] What is more, AT&T's provision of voice services, including to TDM customers, remains highly profitable:

> Total fourth quarter wireline revenues were $14.9 billion . . . . Fourth quarter wireline operating expenses were $13.1 billion . . . . AT&T's wireline operating income totaled $1.8 billion, up 1.8 percent from the fourth quarter of 2011.[27]

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[23] *See* AT&T 4Q12 News Release.

[24] *See* AT&T Public Policy Blog: Bob Quinn, *Building a Network for the 21st Century* (Nov. 7, 2012), *available at* http://attpublicpolicy.com/fcc/building-a-network-for-the-21st-century/. The same VP noted that AT&T required a five-year transition to close its AMP's wireless network. *See* AT&T Public Policy Blog: Bob Quinn, *Sprint's Retiring Ways: What It Says About Encouraging Investment in IP Technologies* (Dec. 3, 2012), *available* at http://attpublicpolicy.com/broadband-policy/sprint's-retiring-ways-what-it-says-about-encouraging-investment-in-ip-technologies/.

[25] Communications Daily, Notebook (Jan. 9, 2013).

[26] Fred Donovan, *Enterprise Voice Equality Concerns Will Not Deter Transition to All IP-Based Network by End of Decade, Says AT&T Official*, Fierce Enterprise Communications (Jan. 8, 2013), *available at* http://www.fierceenterprisecommunications.com/story/enterprise-voice-quality-concerns-will-not-deter-transition-all-ip-based-ne/2013-01-08,

[27] *See* AT&T 4Q12 Press Release.

It is thus apparent that AT&T will be using its TDM network for some time and that the retirement of this network does not require any Commission action at this time. Indeed, depending on the success AT&T has in convincing its customers to begin using its IP-based services, FCC intervention regarding the retirement of AT&T's TDM network may become unnecessary altogether.

Moreover, as AT&T itself recognizes, it is the States – and not the FCC – that will determine, at least initially, when it may retire its TDM network:

> In many states, legacy service obligations effectively preclude retirement of the TDM-based network, thereby requiring providers to maintain both legacy TDM and IP facilities.[28]

While AT&T's petition asks in passing that the FCC preempt these State-imposed requirements (which AT&T did not identify in its petition),[29] an AT&T executive is reported as saying that it is premature at this time for the FCC to consider this matter because such preemption may be unnecessary.[30]

In addition, given that State commissions are closer to the specific circumstances in their States than is the FCC, deferring to the States (at least initially) regarding the timing of the decommissioning of an incumbent LEC's TDM network would appear to be the most sensible approach.

This Commission, given its finite resources, should focus those resources in the near term on those areas that would facilitate the transition to all-IP networks today. The closure of AT&T's TDM network is not a near-term event that warrants FCC consideration at this time.

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[28] *See* AT&T Petition at 16.

[29] *See id.* at 21 ("For example, the Commission would make clear that providers need not obtain . . . similar approval from state authorities in order to replace TDM services with alternatives.").

[30] Communications Daily (Jan. 9, 2013).

D. AT&T'S PETITION CONTAINS UNSUPPORTED ALLEGATIONS

1. AT&T Possesses Market Power in the Provision of Voice Services – and It is Abusing That Power to Inhibit the Transition to an All-IP World

AT&T asserts it is "no longer dominant in any relevant market."[31] AT&T's petition, however, does not contain a single fact to support this sweeping claim. Because AT&T appears to be saying that it has lost customers to wireless and VoIP carriers, it is important to examine AT&T's status in that market.

According to publicly available data, there were 436 million subscribers to voice service in June 2011 (112.2M TDM subs, 33.6M fixed VoIP subs and 290.3 wireless subs).[32] At that time, AT&T served 116.4 million of these voice subscribers – or 26.7% of all voice subscribers. Verizon served another 114.7 million subscribers, so collectively, these two firms control 53% of all the nation's voice subscribers.

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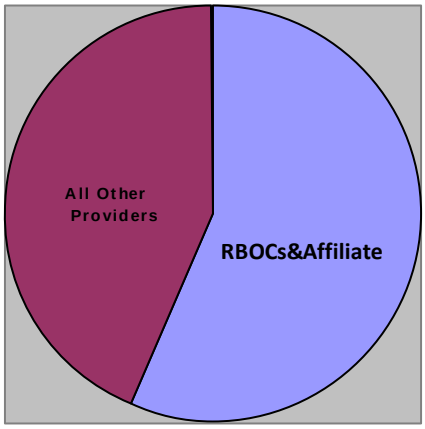
[31] *See* AT&T Petition at 10.

[32] Total subscriber data was obtained from the FCC's Local Competition Reports (Tables 3 and 18). AT&T and Verizon subscriber data were obtained from their quarterly financial reports.

Market Share of Voice Subscribers (June 30, 2011)



It is important to note that subscriber data for the three RBOCs understates the extent of their market power. The data above counts only their "retail" voice subscribers and does not include their resale services. In addition, competitive carriers often interconnect indirectly with voice providers other than the RBOCs, and the RBOCs hold a dominant position in the transit market (especially with respect to other ILECs). In addition, most competitors are dependent upon them for a large percentage of the inputs needed to offer service to both individual consumers and large enterprise customers.

The RBOCs, by their sheer size, possess market power not only in the retail voice services market, but also over the interconnection their competitors need to terminate calls to the RBOC customers. The Commission has repeatedly found that LECs possess a monopoly over call termination because originating carriers have "no choice but to purchase terminating access from the called party's choice of access provider."[33] The fact is that competitive providers cannot meaningfully participate in the voice services market unless they can interconnect with

[33] *Unified Intercarrier Compensation Regime FNPRM*, 20 FCC Rcd 4685, 4698 (¶ 24) (2005). *See also USF/ICC Transformation Order*, 26 FCC Rcd 17663, 17880 (¶ 674) (2001); *Unified Intercarrier Compensation Regime NPRM*, 16 FCC Rcd 9610, 9616-17 (¶ 13) (2001).

AT&T and other ILECs on fair terms (so, for example, Sprint customers can call the customers of AT&T, other ILECs and third party carriers, and *vice versa*).

Congress addressed this terminating access monopoly problem by imposing special interconnection obligations on ILECs in Section 251 and by providing a dispute resolution in Section 252 of the Act. AT&T and other ILECs, however, claim these statutes do not apply to their IP voice services and that as a result, there is no forum that competitive IP voice providers can invoke to obtain a resolution of IP voice interconnection disputes, including ILECs' refusal to negotiate altogether.

As but one example, just last month in an arbitration proceeding with Sprint, AT&T told the Illinois Commission that AT&T has "no duty" under the Act to interconnect with Sprint on an IP basis.[34] AT&T further asserted that the PUC lacks the authority to require AT&T to exchange voice traffic on an IP basis and even if it did possess such authority, the PUC cannot render a decision because it "lacks the guidance it would need from the FCC to arbitrate disputes regarding IP-to-IP interconnection."[35] AT&T additionally claimed that IP voice interconnection is not technically feasible because its network "is a TDM network;" "AT&T Illinois does not have an IP network;" and "AT&T Illinois has no IP network with which Sprint, or any other carrier, can interconnect."[36] In response, ICC staff has stated that AT&T's representations are "misleading" because "AT&T Illinois delivers voice traffic from its AT&T Illinois' U-verse customers to its affiliate in IP format," thereby demonstrating that AT&T is "technically capable of connecting on an IP-to-IP basis with another carrier."[37] So in Illinois, AT&T takes the position

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34 *See* AT&T Albright Illinois Direct Testimony, ICC Docket 12-0550 at 4-5 (Dec. 5, 2012).

35 *See* AT&T Albright Illinois Testimony at 13-14.

36 *See* AT&T Albright Illinois Testimony at 4, 5 and 12.

37 *See* James Zolnierek, ICC Policy Division, Direct Testimony, ICC Docket 12-0550, at 20-21 (Jan. 15, 2013).

that it can interconnect with its affiliates in the provision of IP voice services without having to interconnect with competitive providers such as Sprint.

AT&T takes these positions even though the FCC made it clear that it expects ILECs to negotiate IP voice interconnection agreements in good faith:

> [E]ven while our FNPRM is pending, we expect all carriers to negotiate in good faith in response to requests for IP-to-IP interconnection for the exchange of voice traffic. The duty to negotiate in good faith has been a longstanding element of interconnection requirements under the Communications Act *and does not depend upon the network technology underlying the interconnection, whether TDM, IP, or otherwise*.[38]

Notwithstanding AT&T's disregard of this *Order*, AT&T nonetheless told the FCC a year ago that there is "no market failure that could justify regulatory intervention."[39]

The transition to an all-IP world can be accelerated only when (a) incumbents that control access to most voice customers enter into interconnection agreements for the exchange of voice traffic on an IP basis, and (b) this Commission through its complaint process, and State commissions through their arbitration processes, agree to expeditiously resolve disputes with ILECs resulting from their refusals to enter into such agreements. In AT&T's own words, the "massive benefits to American consumers" that will result from use of IP technology will never be realized until incumbent LECs begin exchanging IP voice traffic with Sprint and other competitive IP network operators.[40]

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38 *USF/ICC Transformation Order, 26 FCC Rcd* at 18045 (¶ 1011) (emphasis added).

39 AT&T *FNPRM* Reply Comments, WC Docket No. 10-90 *et al*., at 17 (March 30, 2012).

40 *See* AT&T Petition at 7.

2. AT&T's Market Share Is Increasing, Not Decreasing as Its Petition Suggests

AT&T complains it is losing market share: "ILECs . . . have been steadily losing ground to cable and wireless operators."[41] However, AT&T fails to provide factual support for this assertion. In fact, AT&T's market share has grown over the years. At the end of 2002, there were a total of 323.8 million voice subscribers (187.5M TDM subs and 136.3M wireless subs).[42] At that time, AT&T provided voice service to 64.3 million of these customers (51.1 TDM subs and 13.2 wireless subs)[43] – or 19.9 percent of all voice subscribers. As noted above, in June 2011 (the most recent period that total TDM subscriber data is available) AT&T's market share was 26.7 percent. In other words, over the past decade, AT&T has increased its share of the voice market by 34.2 percent.

3. There Is No Evidence to Suggest That AT&T Is Facing a Unique Burden in Maintaining Both a Legacy and New Overlay Network

AT&T complains about being "effectively required" to maintain "redundant and costly TDM networks, even after they have turned on replacement IP networks."[44] However, any voice service provider that has been in business more than a few years is "effectively required" to operate and maintain both a legacy network and a newer, more advanced network. Communications technology has been advancing for decades and networks have moved successfully from one technology to the next without the need for a wholesale elimination of regulatory oversight. While each technology presents its own unique advantages, carriers have always been forced to address both future customers and services while maintaining service to existing subscribers.

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41 *See* AT&T Petition at 11.

42 *See FCC Local Competition Report* released June 30, 2003 for period ending December 31, 2002.

43 *See* AT&T ARMIS Report 43-08 for Year-End 2002 for landline subscribers. *See* AT&T 2002 10K report for wireless subscribers (includes 60% of Cingular subscriber count).

44 *See* AT&T Petition at 5, 11, 14 and 16.

Thus, having to maintain "redundant" networks is hardly unique to incumbent LECs generally or AT&T in particular.

AT&T asserts that operating both TDM and IP networks is "immensely expensive" and "exorbitantly expensive."[45] Once again, AT&T does not quantify such expenses or present any evidence to support these assertions. However, during the fourth quarter of last year, at a time when AT&T was operating both TDM and IP networks, it earned a profit of $1.8 billion on revenues of $14.9 billion for its wireline operations.[46] Most competitive voice network operators would welcome the opportunity to enjoy a margin of 12.0 percent even when maintaining "redundant" networks.

Furthermore, over the last ten years, a period during which AT&T has been increasingly deploying IP in its network while continuing to operate its TDM network, there has been no noticeable drop-off in its profits. In fact, as shown in the table below, when adjusted for unusual items, AT&T's operating income has generally increased over time.

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45 *See id.* at 12 and 16.

46 *See* AT&T 4Q12 Press Release.

ATT Corportion - Annual Financial Reports				
		REPORTED		REPORTED
		Income From	Adjusted for	% of
	Operating	Continuing	Unusual Items	Operating
	Revenues	Operations	Op Income	Revenues
2002	42,821	7,361	7,361	17%
2003	40,498	5,859	5,859	14%
2004	40,733	4,979	4,979	12%
2005	43,764	4,786	4,786	11%
2006	63,055	7,356	7,356	12%
2007	118,322	29,141	11,951	10%
2008	123,443	(1,690)	12,867	10%
2009	122,513	21,000	21,492	18%
2010	124,280	19,573	19,573	16%
2011	126,723	9,218	22,589	18%
Note: Adjustments for unusual items				
2007-2009 adjusted in 2010 for OPEBs				
2011 adj for OPEBs, TMo Breakup, and Directory Intangible Assets				

Just last week AT&T's chairman and chief executive officer, Randall Stephenson, told investors that AT&T had "an excellent 2012":

> We grew revenues, increased adjusted earnings per share by 8.5 percent and generated cash from operations at record levels. We used this cash to invest aggressively in the future of our business and returned $23 billion to share-owners through dividends and share repurchases.[47]

"Looking ahead," the chairman continued, "our key growth platforms – mobile data, U-verse and strategic business services – all have good momentum with a lot of headroom":

> AT&T is well positioned to deliver solid revenue and earnings per share growth with stable margins while returning substantial value to shareowners in 2013.[48]

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47 AT&T 4Q12 News Release.

48 *See id.*

Finally, it bears noting that AT&T's complaint that it is "effectively required" by regulation to maintain a costly and redundant TDM network is misleading, at least in part. AT&T does not disclose how much of its TDM network facilities are fully or largely depreciated, nor does it comment on the hundreds of millions of dollars in high-cost USF it has received over the past few years.[49] Moreover, much of these TDM network costs are self-imposed. AT&T could eliminate a sizable portion of these legacy network costs simply by agreeing with Sprint and a handful of other competitive IP network operators to exchange voice traffic on an IP basis – a move that would permit AT&T to decommission tens of thousands of TDM interconnection facilities.

III. NTCA PROPERLY EMPHASIZES THE NEED TO UPHOLD CORE STATUTORY PRINCIPLES; HOWEVER, ITS PROPOSAL THAT RLECs BE ALLOWED TO ASSESS "INCENTIVE-BASED" CHARGES AND ITS REQUEST FOR AN OMNIBUS PROCEEDING SHOULD BE REJECTED

Sprint agrees with NTCA that one of the most important challenges facing the Commission is identifying the "proper path by which to promote and, more importantly, sustain the already-ongoing IP evolution in a manner consistent with the core statutory objectives of protecting consumers, promoting competition and ensuring universal service."[50] The principal problem with NTCA's petition is that one of the concrete proposals NTCA makes – the FCC should permit rural LECs ("RLECs") to condition their making IP voice interconnection available to other IP networks on the latter's payment of RLEC terminating "incentive-based" charges – would undermine, rather than promote, competition.

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[49] According to USAC's high cost USF disbursement tool, four of AT&T's ILEC affiliates (SBC, Southern Bell, Pacific Bell, and Nevada Bell) received $43.8 million in high-cost USF from January through November 2012 alone.

[50] *See* NTCA Petition at iii. *See also id.* at 5 ("The policy path by which to promote and sustain the orderly evolution to more IP-enabled networks must not abandon or neglect the core statutory objectives of protecting consumers, promoting competition, and ensuring universal service.").

A. CORE STATUTORY PRINCIPLES SHOULD BE PROTECTED AND PROMOTED DURING THE TRANSITION TO AN ALL-IP VOICE ENVIRONMENT

NTCA in its petition raises two valid and critically important points. First, it emphasizes that whatever regulatory structure is to govern the PSTN as it migrates from a TDM to IP-based infrastructure must uphold certain key principles: protecting consumers, promoting competition, and ensuring universal service.[51] Second, NTCA states these "core objectives of the Act" and implementing regulations must apply "with equal force whether services are rendered through Class 5 TDM switches and copper networks or routers" or IP technologies.[52] Sprint agrees that any proposed deregulation of interconnection requirements must be evaluated through the lens of statutory compliance. If consumers are harmed, if competition is compromised, or if legitimate universal service goals are threatened, the proposal must be rejected.

The PSTN and its IP-based successor, which NTCA dubs the "Public Routed Communications Network," are not a single network defined by a specific technology or owned by a single entity. Rather, the PSTN/PRCN is a continually evolving "network of networks" owned by hundreds of entities using multiple technologies. The PSTN has worked, and the PRCN will work, only if all network operators can interconnect with each other on just, reasonable, and nondiscriminatory rates, terms and conditions so competition is promoted and ubiquitous calling remains available.

It would hardly seem necessary for the Commission to explicitly assert its support of these core principles and their importance to both consumers and competition. Nevertheless, some parties, most notably the RBOCs, want the FCC to effectively remove IP-based infrastructure used in voice calling from all regulatory oversight, so a discussion of why a "sledgeham-

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51 *Id.* at 4.

52 *Ibid.*

mer" approach to regulatory reform would eviscerate the core statutory principles NTCA identifies apparently is necessary.

NTCA's petition describes some of the severe consumer and business customer harms that could arise in a "deregulated" environment. Removal of regulatory obligations and oversight could have equally harmful and permanent effects on competition as well. To avoid such pernicious outcomes, Sprint joins with NTCA in urging that any regulatory reform be "tether[ed] to the ultimate statutory cornerstones of protecting consumers, promoting competition, and ensuring universal service."[53]

B. NTCA'S REQUEST THAT RLECS BE PERMITTED TO IMPOSE "INCENTIVE-BASED" CHARGES ON IP VOICE TRAFFIC MUST BE DENIED

NTCA states its members have "led the IP evolution to date."[54] According to NTCA, its members have already deployed broadband to "over 92 percent of their customers" and "more than half" of them have deployed softswitches.[55] With this infrastructure, and assuming an RLEC also provides IP voice services to its customers (as many RLECs do), an RLEC should be able to exchange voice traffic with other IP networks on an IP basis. So long as an RLEC exchanges its IP voice traffic at the same locations where it exchanges non-voice IP traffic, record evidence shows that the RLEC should incur minimal or no additional cost in providing IP voice interconnection (because voice traffic would use only an insignificant amount of the capacity of its existing IP transport facilities).[56]

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53 *Id.*, p. 4.

54 *See id.* at 3.

55 *See ibid.*

56 No one has ever claimed that IP transport networks are "cost free." *See* NTCA Petition at 14. RLECs already have IP transport networks in providing their broadband IP services, for which they incur costs. However, evidence in the record shows that adding voice traffic to these existing IP transport facilities should not increase an RLEC's costs in any way because IP voice traffic will at most use 2% of

Providers of voice services, including the RLECs, should be self-motivated to exchange their voice traffic on an IP basis. Among other things, they could provide to their customers a better quality of voice service for more of their calls. They could reduce their costs of service by beginning to decommission at least a portion of their TDM transport networks, which have much higher costs compared to transporting traffic over a converged IP network. IP interconnection also enables service providers to introduce additional network reliability that benefits their customers by the added redundancy that IP technology makes possible (*e.g.*, backup interconnection points if an outage occurs at the primary point).

NTCA nonetheless says its members should be "rewarded" for their past IP investment and further, be given "an incentive to offer IP interconnection":

> [O]ne specific measure that the Commission should consider for immediate adoption is an incentive-based mechanism that would allow carriers to recover the costs for the exchange of communications traffic *where they **agree** to make available IP-based interconnection*.[57]

It appears that NTCA is proposing for IP voice traffic destined for RLECs the very kind of access charge regime that is incompatible with the Telecom Act and which is being phased out.

NTCA's petition does not contain any of the facts the Commission would need to seriously evaluate this proposal. The petition does not identify, much less document, any additional costs that RLECs would incur by interconnecting on an IP basis. Nor does the petition challenge the record evidence in the pending *ICC Transformation FNPRM* proceeding which shows that incumbent LECs would likely incur minimal or no additional costs by exchanging voice traffic on an IP basis.[58]

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the capacity of these IP facilities, and IP network operators typically design their networks to have far more spare capacity than what voice traffic would utilize. *See* Sprint *FNPRM* Comments at 21.

[57] *See* NTCA Petition at 13 and 14 (emphasis added).

[58] *See e.g.,* Sprint *FNPRM* comments and reply comments.

NTCA's petition also does not explain why RLECs should be "rewarded" for making IP investments that benefit themselves and their customers. Nor does the petition explain why RLECs need an additional "economic incentive" to interconnect with other voice providers.

NTCA's proposal is also predicated on the calling-party's-network-pays ("CPNP") principle of cost recovery, which assumes the calling party is "the sole beneficiary and sole cost-causer of a call."[59] However, in its *ICC Transformation Order*, the Commission "reject[ed] the notion that only the calling party benefits from a call, and therefore should bear the entire cost of originating, transporting, and terminating a call."[60] Instead, the FCC determined that both the calling and called parties "benefit from participating in a call, and therefore, that both parties should split the cost of the call."[61] With bill-and-keep, end users "pay for the benefit of making *and* receiving calls."[62] Bill-and-keep, the FCC has observed, has many advantages over CPNP regimes, including promoting competition and economic efficiency:

> Under bill-and-keep, "success in the marketplace will reflect a carrier's ability to serve customers efficiency, rather than its ability to extract payments from other carriers."[63]

Notably, no one (including NTCA or any of its members) has challenged on appeal the Commission's decision on cost-causation. At minimum, NTCA should explain how its IP access charge proposal is consistent with core cost-causation principles.

NTCA is mistaken in asserting that the "incentive-based" charges it wants the Commission to authorize would "more closely resembl[e]" the way IP network operators exchange non-

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59 *See USF/ICC Transformation Order*, 26 FCC Rcd at 17907 (¶ 744).

60 *Id.* at ¶ 34.

61 *See id.* at 17907 (¶ 744).

62 *Id.* at 17922 (n.1409) (italics in original).

63 *See id.* at 17913 (¶ 756) (supporting citation omitted).

voice IP traffic in "the Internet world."[64] In fact, most non-voice IP traffic today is delivered to a regional Internet Exchange Point ("IXP"), where the traffic is generally exchanged on a "settlement free" (or a "sender keeps all") basis – meaning that neither party pays the other for the exchange of traffic, with each party instead deriving revenues from its own customers.

Admittedly, some smaller IP network operators may need to purchase transport facilities to reach these regional IXP peering points. But this is a cost that RLECs incur today in providing their broadband Internet services. And, because IP voice will comprise such a tiny fraction of all IP traffic, it is unlikely RLECs will incur any additional costs by adding voice traffic to their existing arrangements.

Since its petition does not identify any additional costs that its members would incur by interconnecting on an IP basis, at bottom NTCA is effectively asking the Commission to impose on IP voice traffic the very kind of implicit subsidies that the Act and FCC rules require be eliminated.[65] And in making its proposal, NTCA's petition ignores the fact that Congress determined long ago that such implicit subsidies have no place in competitive markets.[66] The NTCA petition

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64 *See* NTCA Petition at 14.

65 The FCC has recognized that intercarrier compensation rates above one's incremental costs "constitutes an implicit annual subsidy of local phone networks." *USF/ICC Transformation Order,* 26 FCC Rcd at 17962 (¶ 857). *See also id.* at 17965 (¶ 870).

66 *See* 47 U.S.C. § 254(e) ("Any such [universal] support should be explicit."); § 251(g) (access charges LECs imposed in 1996 are grandfathered temporarily). *See also USF/ICC Transformation Order,* 26 FCC Rcd at 17662 (¶ 262) (The 1996 Act "directed the Commission to make universal service support explicit, rather than implicitly included in interstate access rates."); *id* at 17909 (¶ 747) ("[B]ill-and-keep helps fulfill the direction from Congress in the 1996 Act that the Commission should make support explicit rather than implicit."); *Unified Intercarrier Compensation NPRM,* 11 FCC Rcd 9610, 9623 (¶ 32) (2001) ("Congress in the 1996 Act directed this Commission and the states to reform universal service, and in particular, to eliminate implicit subsidies contained in access charges and instead make all universal service support *explicit*.") (italics in original).

further ignores the Commission's ruling that per-minute charges and implicit subsidies are "fundamentally in tension with and a deterrent to deployment of all IP networks."[67]

Perhaps most perplexing, NTCA's proposal undermines one of the very "core statutory objectives" that NTCA states (correctly) "must not [be] abandon[ed] or neglect[ed]" – namely, "the promotion of competition."[68] As the Commission has recognized, any system of implicit subsidies "distorts competition, placing actual and potential competitors that do not receive these same subsidies at a market disadvantage, and denying customers the benefits of competitive entry":

> The system creates competitive distortions because traditional phone companies receive implicit subsidies from competitors for voice service, while wireless and other companies largely compete without the benefit of such subsidies.[69]

C. NTCA'S PROPOSED OMNIBUS PROCEEDING WOULD BE UNWIELDY AND TIME CONSUMING, AND WOULD NOT PROMOTE IP DEPLOYMENT

Sprint supports NTCA's call for thoughtful and balanced regulatory reform, and agrees that unfettered deregulation is incompatible with protecting and promoting core statutory principles. However, NTCA's suggested approach – the FCC should develop and seek comment on "a list of specific existing regulations that may have limited or no applicability in the delivery of IP-enabled services…"[70] – is highly problematic. It is unwieldy, would be extremely time consuming, and will do little to encourage investment in IP infrastructure in the near term. Rather than initiating a new omnibus proceeding, the FCC can best encourage IP deployment by immediately

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67 *See USF/ICC Transformation Order,* 26 FCC Rcd at 17873 (¶ 648).

68 *See* NTCA Petition at iii and 5.

69 *USF/ICC Transformation Order*, 26 FCC Rcd at 17669 (¶ 9) and 17962 (¶ 857). *See also id.* at 17672 (¶ 14) and 17904-05 (¶ 738).

70 *See* NTCA Petition at 11.

affirming that incumbent LECs are required to negotiate in good faith and establish IP interconnection agreements for the exchange of voice traffic, and by completing its open *FNPRM*.

As an initial matter, it is not clear from a procedural standpoint what NTCA is requesting. Although its filing is styled as a "Petition for Rulemaking," NTCA does not specify either what new rules it would like to be considered, or which existing rules it believes should be eliminated or modified. To the extent NTCA is seeking exemption from certain rules for certain carriers, it should seek forbearance either on its own motion or piggy-back on pending forbearance proceedings.[71]

What is clear is that an omnibus proceeding to consider "the existing regulatory framework" is not workable. Title II of the Communications Act is approximately 100 pages long, as printed in the April 1999 *Compilation of Selected Acts Within the Jurisdiction of the Committee on Commerce*. Parts 0-69 of Volume 47 of the Code of Federal Regulations are three volumes long (approximately 2000 pages, per the October 1, 2011 edition). The orders adopting, reconsidering, clarifying, amending, and waiving the rules may well be hundreds of thousands of pages long. For the Commission, even with full cooperation from the industry, to digest and distill this vast body of information, to identify rules that "may" not apply in whole or in part to the delivery of IP-enabled services, to then determine whether they should be retained, discarded, or modified, for some or all entities, and to do so within a "firm but reasonable deadline"[72] and in a transparent, data-driven fashion, would be, to put it mildly, a challenge.

NTCA's petition does raise the legitimate question of what the FCC can do to encourage IP investment and deployment. Sprint believes that this question can be answered in a more efficient and practical manner by having the Commission address what is perhaps the biggest gap in

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71 *See, e.g.*, USTA Petition for Forbearance, WC Docket No. 12-61 (Feb. 16, 2012).

72 *See* NTCA Petition at. 11.

the IP regulatory regime: rules governing IP voice interconnection. The Commission should move forward expeditiously on its *ICC Transformation FNPRM*, which already has a substantial and substantive record. Once the FCC has established an IP voice interconnection policy framework, including default IP voice interconnection rules, IP network owners will have a solid and common base on which to interconnect and exchange voice calls on a default basis, or to negotiate mutually beneficial and workable interconnection arrangements.

IV. THE COMMISSION'S NEXT STEP TO FACILITATE THE TRANSITION TO AN ALL-IP WORLD SHOULD BE TO COMPLETE ITS PENDING IP VOICE INTERCONNECTION *FNPRM*

The most important next step the Commission can take to facilitate the transition to an all-IP ecosystem is to complete the pending *FNPRM* regarding IP voice interconnection. Such a step would do far more to promote the public interest in a concrete and tangible way than the ill-defined new regulatory exercises that the AT&T and NTCA petitions are proposing.

Scores of network operators, including incumbent LECs, are today providing IP voice services to the public. But rarely are these voice calls processed entirely in IP; rather, at the edge of most IP networks, the overwhelming majority of calls are converted to TDM, a 40+ year old technology that predates the launch of wireless services and the personal computer. Given this, the logical next step to facilitate the transition to an all-IP environment is for the Commission to focus on expediting IP voice interconnection, so today's IP voice islands, separated by a murky sea of TDM interconnections, can be connected in a seamless, nationwide IP infrastructure to support voice services.

The National Broadband Plan recognized the importance of IP voice interconnection when it recommended that the Commission "clarify interconnection rights and obligations and

encourage the shift to IP-to-IP interconnection."[73] The Commission has likewise set an "express goal of facilitating industry progression to all-IP networks, and ensuring the transition to IP-to-IP interconnection is an important part of achieving that goal," also recognizing that IP voice interconnection is "critical."[74]

Sprint has begun to take the next step by exchanging voice traffic with a growing number of other competitive IP network operators, using IP rather than TDM interconnection. The problem competitive network operators face is that incumbents still serve most of the nation's voice customers and ILECs have refused to interconnect IP networks to exchange voice calls – which, in turn, forces competitive IP network operators to continue use of inefficient and costly TDM interconnection.

It is now apparent that Commission action is required to push incumbents to interconnect and exchange voice traffic in IP format with their competitors and thus to transition to an all-IP ecosystem. The Commission's finding 17 years ago – "incumbent LECs have no economic incentive . . . to provide potential competitors with opportunities to interconnect with . . . the incumbent LEC's network"[75] – regrettably still remains true today.

A. IP VOICE INTERCONNECTION WOULD BRING ENORMOUS BENEFITS TO CONSUMERS, BUSINESSES AND THE NATION'S ECONOMY

Insofar as Sprint is aware, no party, including incumbent LECs, disputes the significant benefits of IP voice interconnection, which include:

1. Nationwide IP interconnection could reduce the costs of providing voice services by over $1 billion annually. Historically, Sprint has interconnected with other voice service providers using TDM, currently maintaining more than 18,000 interconnection facilities. These facili-

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73 *See* National Broadband Plan, Recommendation 4.10, at 49.

74 *See USF/ICC Transformation Order*, 26 FCC Rcd at 18044 (¶ 1010) and 18123 (¶ 1335).

75 *Id.* at 18124 (¶ 1337).

ties generally are small in capacity (*e.g.*, a DS1 has a capacity of 24 voice channels), they can be long, and they are expensive.

In contrast, if Sprint could obtain IP voice interconnection from AT&T, the largest and third largest providers of voice service could exchange all of their traffic at only four to six locations nationwide, compared to more than 5000 TDM interconnections Sprint currently maintains with AT&T. The capacity of the interconnection facilities would be large (*e.g.*, a 10 Gigabyte Ethernet facility can transport over 160,000 voice calls), the length of the "10 Gig" facility would be measured in feet rather than miles, and the per-unit cost of the facility would be at least 94 percent less compared to current TDM tandem interconnection facilities.[76] What is more, so long as IP voice traffic is exchanged at the same locations as non-voice IP traffic (*i.e.*, at IXPs), neither network operator should incur any incremental costs in transporting voice calls over their existing IP transport networks (because these facilities are designed to have far more spare capacity than voice traffic would require).[77]

Sprint estimates that it could save well over $100 million annually on interconnection facilities with IP-based interconnection.

Sprint serves approximately 13 percent of all voice subscribers in the U.S. If other voice network operators can achieve the same cost savings by using IP voice interconnection (and there is no reason to believe they cannot), nationwide, it is likely that over $1 billion in annual operating costs could be removed from the provision of voice services. Importantly, competition

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[76] *See* Sprint *FNPRM* Comments at 19.

[77] To be clear, the voice traffic would not be commingled with the non-voice IP traffic. The significance of the IXPs is that the carriers already have large IP transport facilities to IXPs, where they currently are exchanging large volumes of non-voice IP traffic, making those locations the natural place to exchange voice traffic in IP format as well.

in the provision of retail voice services to consumers and businesses will ensure that these costs savings will be passed through to customers.

2. IP voice interconnection would improve the reliability of voice communications when accomplished at the IXP. Because of the huge volume of traffic exchanged between service providers at IXPs and the economic value those traffic volumes represent (*e.g.*, end-user service revenue, online purchases, advertising revenues, general business transactions, etc.), IXPs are designed to have 99.999% uptime, have battery and/or generator power backup, alternate routing, and are highly secure. The current traffic flowing through the IXPs is likely to be as valuable and critical to service providers as traditional voice service given the ever-increasing reliance on email, access to web content, etc., as compared to real-time voice communications.

3. Consumers can benefit from high definition voice and enjoy an array of new IP-based features and services. VoIP capabilities such as presence and unified communications can be realized only if service providers are connected via IP. A conversion to TDM somewhere along the path will eliminate or degrade some of the beneficial capabilities.

B. WHILE MANY ILECS HAVE BEEN PROVIDING IP VOICE SERVICES FOR SOME TIME, THEY STILL REFUSE TO EXCHANGE VOICE TRAFFIC ON AN IP BASIS

Incumbent LECs refuse to offer IP voice interconnection although many of them offer IP voice services to the public. Remarkably, some of them deny they even have IP networks. For example, one year ago CenturyLink told the Commission it had no IP network, while concurrently telling investors that it operators "one of the largest, most sophisticated [IP] networks in the world, with this network handling "over 3 billion minutes per month of VoIP traffic."[78] Similarly, just last month, AT&T told the Illinois Commission it, too, has no IP network – even though

[78] *See* Sprint *FNPRM* Reply Comments at 9.

at that time it was serving over 2.9 million U-verse voice customers.[79] Given that incumbents still serve most of the nation's voice customers, it is apparent that the transition to an all-IP ecosystem cannot meaningfully get underway until they are directed to provide IP voice interconnection.

Detailed rules are not necessary. Rather, as Sprint showed in its *FNPRM* pleadings filed last year, only a handful of high level rules are needed to facilitate the broad availability of IP voice interconnection – rules that would be triggered only if an ILEC or one of its affiliates was offering a retail IP voice service:

- Since at least with respect to incumbent LECs, the FCC's expectation that good faith negotiations resulting in interconnection agreements has not been fulfilled,[80] the FCC should immediately affirm that its IP good faith negotiations and interconnection requirement applies to incumbent LECs;
- This negotiation/interconnection requirement should apply, upon request, to both an IP network operator and all of its affiliates providing voice services;
- Unless the parties agree otherwise, IP voice traffic should be exchanged at the same locations where non-voice IP traffic is exchanged today (*i.e.*, regional Internet exchange points);
- Unless the parties agree otherwise, IP voice traffic will be exchanged on a "settlements free" (or "sender keep all") basis;
- Unless the parties agree otherwise, every terminating network operator should be responsible for any IP-to-TDM conversions needed to complete incoming voice calls to its customers; and
- The FCC's existing complaint procedures (and state arbitration proceedings) can be invoked to resolve any disputes.

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79 *See* AT&T Supplementary Operating and Financial Data, attached to AT&T 4Q12 News Release.

80 *See USF/ICC Transformation Order*, 26 FCC Rcd at 18044 (¶ 1011).

It bears noting that these rulings would not require the Commission to classify VoIP traffic as a telecommunications or information service because, as Sprint has previously demonstrated, the Commission possesses ample legal authority under Title II or its Title I ancillary authority.[81]

Sprint urges the Commission promptly to complete the IP interconnection portion of the *FNPRM*. Sprint submits that this one step will provide a greater public benefit and will do more to facilitate the transition to an all-IP ecosystem than any other step the FCC might take in the near future.

V. CONCLUSION

For the foregoing reasons, Sprint respectfully requests the Commission to deny the AT&T and NTCA petitions. As explained above, the most important next step the Commission can take to facilitate the transition to an all-IP world is to finish its *FNPRM* involving IP voice interconnection.

Respectfully submitted,

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[81] *See* Sprint *FNPRM* Comments at 6-8, and Sprint *FNPRM* Reply Comments at 31-36.